



## State of New Hampshire

### PUBLIC EMPLOYEE LABOR RELATIONS BOARD

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TEAMSTERS LOCAL 633 OF  
NEW HAMPSHIRE

Petitioner

and

TOWN OF STRATHAM

Respondent

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CASE NO. M-0729

DECISION NO. 97-020

### APPEARANCES

#### Representing Teamsters Local 633 of New Hampshire:

Thomas D. Noonan, Business Agent

#### Representing Town of Stratham:

Steven J.C. Woods, Esq., Town of Stratham

#### Also appearing:

David D. Pierce, Stratham Police  
Carl L. Spaulding, Stratham Police  
Richard A. Wood, Stratham Police  
Richard A. Gendron, Stratham Police  
Fred Hutton, Stratham Highway Department  
Paul R. Deschaine, Town of Stratham

### BACKGROUND

Teamsters Local 633 of New Hampshire filed a petition for certification of a bargaining unit to consist of employees of the Town of Stratham police and highway departments. The petition was received at the PELRB offices on March 21, 1996. The Town of Stratham filed objections on April 5, 1996. The matter was heard

before the hearing officer, Gail Morrison, on May 20, 1996, and a decision was issued on July 23, 1996.

Teamsters Local 633 of New Hampshire took appeal from the decision of the hearing officer, Decision No. 96-058, on August 6, 1996. The Town of Stratham filed a cross appeal on August 23, 1996. The Board considered the appeals and granted a re-hearing on October 29, 1996. The matter was scheduled to be heard before the full board on November 19, 1996, but was continued and heard on January 23, 1997.

Teamsters Local 633 objected solely to the hearing officer's determination that the police sergeant's position is supervisory in nature and so not properly included in the bargaining unit. The Town agreed with the hearing officer on that matter but cross appealed the above cited decision stating:

- a. objection to the determination that there existed a community of interest between members of the police and highway departments.
- b. objection to the inclusion of those officers who are designated "on call" officers.
- c. objections to the inclusion of two positions: the secretary for confidentiality reasons and lieutenant for supervisory reasons.
- d. objection to the certification of a bargaining unit of less than ten members as would result if the previous objections were upheld and a bargaining unit approved.

#### FINDINGS OF FACT

1. The Town of Stratham is a "public employer" within the meaning of RSA 273-A:1 X.
2. Teamsters Local 633 of New Hampshire seeks formation of a fourteen member bargaining unit to include eleven employees of the Town of Stratham police department and three members of the highway department.
3. Sergeant Richard A. Wood has been employed with the Stratham Police Department for eleven years and was a corporal, who reported to the lieutenant, at the time the Petition for Certification was filed on March 21, 1996. At that time, there were no sergeants.

Sergeant Wood assigns shifts for the department and can decide on the use of part-time workers. Sergeant Wood performed evaluations at the Chief's request after the Chief's five month absence. Evaluation is not part of his regular assignment and he does no evaluations now that the Chief is again performing that duty. The sergeant "pulls" patrol shifts as do all other officers. He can discipline fellow employees in emergencies but otherwise will make recommendations to the Chief rather than carry out discipline. This position is third in line of command after the lieutenant position.

4. Lieutenant Carlton Spaulding has been with the Stratham Police Department for nearly eighteen years. He has been a lieutenant for about four years. Prior to hire, he answered a newspaper advertisement for a part-time patrol officer and was brought on as a part-time officer as was Officer Pierce. His authority is seated in his role as department detective. He does little supervising of personnel. He is in charge of criminal investigations for the department and occasionally works a patrol shift. Following the chain of command, he was in charge when the Chief was not on the job for an extended period.
5. The secretary for the police department does typing of reports for all officers. She is expected to perform as a matron when there are female prisoners who must be searched. The secretary is in frequent contact with officers in the field and will relay messages such as those requesting assistance by highway personnel even though highway vehicles and police vehicles all have the town channel and do communicate directly. She does type for Chief Michael Daley, although the schedule of 1995 payroll hours (Town #1) was typed for the hearing by Chief Daley.
6. Corporal Richard Gendron recalled that the term "on call" came into usage at about the time of the filing of the certification petition. Prior to that time, advertisements were placed for "part-time" officers. Part-time officers fill open shifts just as other officers do and are essential to the operation of the Stratham Police Department. Part-time and full-time officers receive training at the Police Standards and Training Institute. Part-time officers are sometimes recruited into full-time positions. Corporal Gendron

testified that all police officers serve as part-time patrolmen.

7. In this small community, with a population of about 6,000, there is much interaction and cooperation between the police and highway departments because of their mutual responsibility for safety on the roads. Fred Hutton, who heads the highway department, stated that attending to highway safety is a common bond between police and highway department employees. Highway personnel will call for police assistance or advice whenever necessary. When a tree is down on the road or the weather is affecting the condition the roads, the police will call on highway personnel to address the problem. There is no commonly shared equipment but cruisers receive basic services at the highway garage such as fuelings and washings.
8. Stratham police officers are uniformed and have a paramilitary chain of command. They work on rotating shifts while highway employees work regular hours. However, both departments' employees are covered by the same plan of benefits, such as vacation, bereavement, and sick leave, with some additional benefits available to police officers. Both work additional hours when emergency demands such as when police officers call on the common channel, Channel 4, to ask for assistance from highway department employees.

#### DECISION AND ORDER

This Board reviews proposed bargaining units on a case by case basis. Circumstances and facts vary city to town and town to town. The overriding principle applied to harmonize disparate facts in all cases is that of community of interest. University System of New Hampshire, 117 NH 96, 99-100 (1977).

The Town of Stratham's police and highway departments are integral parts of a small town's governmental system for providing services. The highway department personnel number less than a half dozen, while the police department personnel number just under one dozen employees. All work closely together and many of these two departments' employees' responsibilities to the citizens of Stratham are symbiotic. Also, the core benefits these town employees receive as part of their compensation for performing those duties are the same. In this case, there is a sufficient community of interest between employees of the police department and employees of the highway department to expect that

they will be capable of bargaining together as members of the same bargaining unit.

The police department secretary is to be included in the bargaining unit. The position has not been shown to be a required confidential employee. Though the Chief will be responsible for generating some confidential labor relations material, Chief Daley has demonstrated computer expertise. It was Chief Daley who prepared the chart entered as Town Exhibit No. 1. Only confidentiality related to labor negotiations is addressed by RSA Chapter 273-A:1 IX (c).

Stratham employs full-time certified and part-time certified police officers. They are law enforcement professionals who work side by side as part of the team necessary for staffing the Stratham Police Department year to year. They are essential employees, rather than "on call" employees within the meaning of RSA 273-A:1 IX (d). These part-time officers have much in common with full-time town employees.

The sergeant is a working supervisor who is not required to exercise the degree of discretion which would yield mandatory exclusion. On that point, the prior decision is reversed. The position of sergeant is properly within the bargaining unit as is the lieutenant. Supervisory authority is concentrated in the Chief of Police.

The bargaining unit appropriate for Town of Stratham employees is a fourteen member unit to consist of the following positions: police lieutenant (1), sergeant (1), corporal (2), full-time patrol officers (2), part-time patrol officers (4), police department secretary (1), highway department truck/heavy equipment operators (3).

So ordered.

Signed this 28th day of February, 1997.

  
JACK BUCKLEY  
Alternate Chairman

By unanimous decision. Alternate Chairman Jack Buckley presiding.  
Members E. Vincent Hall and William Kidder present and voting.